LEGISLATION & LAW IN ISLAM

By
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التشريع والقانون في الإسلام

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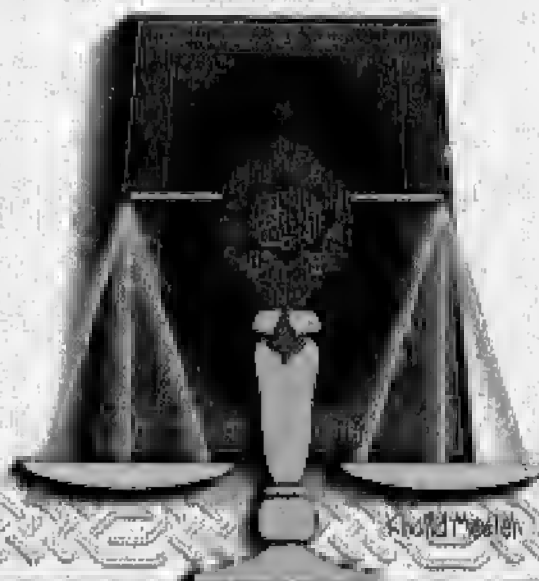
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Legislation And Law in Islam

Legislation, which depends on the law and governs by it, is a fundamental part of Islamic society.

Law provides a clear path from Allah, the Most High, for the organization of the Islamic life according to the Glorious Qur'an and the Pure Sunnah. An Islamic society follows laws regulating life, worships and treatments. A Muslim believes in the verse which says:

" Fasting is ordained for you .... "

(Sura 2:183)

Just as he believes in the verse which states:

" ....Ordained for you is the law of retribution...."

(Sura 2:178)

He cannot accept the verse of Prayer and refuse the verses which forbid usury.

The following is a discussion of this subject:

* The importance of Divine Legislation to the society:

Society must have laws that organise its relations and punish those who do not follow its principles.

This law may have divine or earthly origins. Hearts and personal motives are not enough for the prevalence of morals and the safety of society. They are not enough to maintain its financial and mental states and ensure justice between people. For all this, Allah sent His Messengers and revealed His Books for organising life in the 'right way'.

Allah, the Most High, says:

"Certainly We sent Our Messengers with Clear Signs and We revealed to them the Book and the Balance so that the people may observe justice." (Sura 57:25)

Also, Allah reveald His Books to judge between people. The Qur'an was not meant to be only recited for died people or for decorating walls. Allah, the Most High, says:

"We have revealed to you the Book (Qur'an) in Truth, that you may judge between the people as God has shown you,....." (Sura 4:105)

Another verses, which makes obligatory to judge with what Allah has reveald, says:

" And We reveald to you the Book (the Qur'an) in Truth, confirming what has remained in act of the Scripture before it, and the determiner of it, so judge

between them according to what God has revealed, and do not follow their vain desires, turning aside from the Truth that has come to you. We have prescribed a law and away of life for each of you, if God had pleased He would have made you one nation, but He may test you in what He has given you, so strive to vie with one another in good deeds, to God is the return of all of you, and He will tell you about that in which you differ .

And you should judge between them by what God has revealed, and do not follow their vain desires, and be cautious of them, lest they tempt you from part of what God has revealed to you, but if they turn away then know that God wishes to afflict them for some of their sins, and most surely, many of the people are deviators.

Is it the rule of paganism that they are seeking? Yet, for those who are certain in their faith, who is there better to rule than God." (Sura 5:48-50)

From these verses we notice that:

These verses are follow verses which are talking about the Bible and the Gospel. Allah, the Most High, says:

" ....,and whoever does not judge according to

what God has sent down, those are unbelievers."
(Sura 5:44)

The Qur'an states:

" ...., and whoever does not judge according to what God has sent down, those are the evil doers." (Sura 5:45)

The Qur'an also states:

" ..., whoever does not judge according to what God has revealed, those are the deviators."

(Sura 5:47)

Allah, the Most High, will not judge people of pre-Islamic scripture with disbelief, injustic or straying from the correct path; and then exempt Muslims from the very same judgement. This is because what is revealed by Allah to the Muslims is not different from what He revealed to pre-Islamic people. So, there is no room to dispute whether the verses which were revealed to the people of earlier Scripture were not revealed to Muslims.

Secondly, these verses warn against ignoring parts of what Allah has revealed to His Messenger:

" ....and be cautious of them, lest they tempt you from part of what God has revealed to you..."

(Sura 5:49)

Thirdly, people must choose between the Rule of Allah and the Rule of paganism. He who does not accept the first will unavoidably accept the second.

Allah, the Most High, says:

"Is it the rule of paganism that they are seeking? Yet, for those who certain in their faith, who is better to rule than God." (Sura 5:50)

Legislation changes Islamic and moral orders into obligatory laws and punishes who does not follow them.

The human needs for Divine legislation, free from negligence and human desire, is only satisfied by Islamic Legislation which explains the Guidance of Allah to humanity. There is no other Divine legislations because the Bible and Gospel are attered, as it has been proved by contemporaries. The Glorious Qur'an is the only text which has not been attered.

Human beings need Divine direction to protect them away from impure thoughts and seductive behaviour. Very often, the minds of human beings are thinking of ugly crims and sins. For example, the people of Asbarta killed weak children. Arab of pagan Arabs buried their daughters alive. Indian, Roman, Persian and other civilization divided people

into classes permitting to one class what was forbidden to other. They intentionally killed each other with reason and sometimes without.

Nowadays, in the West, we find those who permits homosexual marriages, which some religious people bless.

With the shortcoming of human thought compared to the Divine Science, we find that even when human beings find the right way from seduction and the useful from the harmful, they are sometimes overcome by desires and people of authority and power to justify which is forbidden and forbid which is permitted.

An example is the decision to forbid alcohol in the United states which was reversed dispite the negative effects of alcohol use on man, families and society. The end of the abolition was due to the desire to drink also for the interest of those who recieved benefits from the spread of alcohol.

* ***Legislation is not only the bounds which are set by God.***

Legislation in Islam includes more than bounds and punishment, it organizes the relationships between man and his God, his family and his society. It

also organizes the relations between the ruler and the subjects, between the rich and the poor, between the owner and the renter and between the Islamic state and other states in peace abd war. It is a civil, administrative, regulated and national law in addition to its being a religious law.

Islamic Fiqqh includes: worship, treatment, marriage, inheritance, cases, bounds, punishment, strife, treaties, what is lawful, what is forbidden, precepts and good manners. It organizes man's life from personal hygiene to how to run matters of State.

Bounds set where Islamic society refuses crimes. Bounds are not horrible in Islam, as preachers and Orientalists explain them to be.

Westerns consider bounds or punishment horrible for two reasons which are explained by El-Mawdoudy in his speech about the bound of adultery in his book 'Al Hejab'. He, God bless him, says:

"Western thought shuns the punishment of a hundred lashes. The reason behind this is not their hatred of physical torture but their imperfect morals. They considered it dishonourable in the past, but now consider it something of amusement. They want to permit adultery so long as it does not affects the freedom or the rights of another person. Once it does

there must be punishment for this. Even if adultery, occurs is considered trivial since it affects only one person. A fine is considered to be enough of a punishment for that.

Intuitively, anyone who believes this will find a hundred lashes are unfair. But if he knows that adultry, with acceptance or compulsion and with a married woman or a virgin, is a social crime and affects the whole society, then he must change his point of view to protect society. The reasons behind adultery are rooted in man's animality nature. It is impossible to alter this behavor by imposing a fine. So we use hard punishment to prevent it. Punishing one or two people is justified to protect millions of people from the great harm caused to the nation and the coming generations will inherit this harm without any reason.

Western Civilization protects the rights of individuals but ignores those of society. As a result, the individual's rights are supported by the law, making them more important than people's rights. People of Western paganism are like people of any paganism are concerned with what is tangible and not what is reasonable.

They find it horrible to see someone lashed be-

cause they do not understand the impact of his actions on society and the coming generation."

I would like to mention that Islam requires a considerable amount of proof against the accused in a crime, especially the crim of adultery; and in the time of the Prophet and the Caliphs, the only thing accepted in place of this proof was a confession.

*** Islam is eager to pardon bounds'cases.**

Islam does not condone spying on people, it protects the private life of people and forbids spying.

I would like to direct the reader's attention to an important point regarding this matter: Islam does not persue punishment and sentencing except in cases where the wrongdoer deserves it. Islam does not condone the use of survaillence devices and set ups to catch someone 'in the act'.

On the contrary, we find that Islam protects the private life of individuals. It is against uncovering scandals by individuals or governing authorities.

El Hakem says that Abdel Rahman Ibn Awf kept guard with Umar and as they were walking, there was a light coming from a house, they approached it until they found a closed door and could hear loud voices. Then Umar asked Abdel Rahman: "Do you

know whose house is it?" He answered: "No" He said: "It is the house of Robay'ah Ibn Omayah Ibn Khalaf and now they are drinking wine. What do you think?"

Abdel Rahman said: "I think we did what is prohibited by Allah, He says: 'And do not spy' But we did." Then Umar left them.

Abu Dawoud and El Hakim narrated that Zaid Ibn Wahb said: A man came to Ibn Mas'oud and said: "Do you see Al Walid Ibn Okbah and his beard distils wine?" He answered: "The Messenger of Allah (P.B.U.H.) prohibts us of spying. What is become clear we must follow."

Abu Dawoud also reported that four companions (Gaber Ibn Nafeer, Katheer Ibn Murrah, Al Mikdam Ibn Madikrab and Abi Imamah Al Dah'y), may Allah be pleased with them, said that the Prophet (P.B.U.H.) said: "If a ruler searches for doubt in people he will spoil them." Prophetic teaching highly stress the need to ones mistakes as well as those of others.

Ibn Umar, may Allah be pleased with him, narrated: The Messenger of Allah after performing the bound to Ma'iz Al Aslamy says "Avoid this dirtiness which Allah prohibits and whoever does it should

keep it to themselves and repent to Allah because those whose crimes become clear, will be punished according to the Book of Allah."

The Messenger performed the sentence to Ma'iz after he came to him four times and confessed his crime. The Messenger tried to shield him from having to face the sentence of his crime, but he insisted on it.

The same case applies to the Ghamdian woman. Abi Burda reported that his father stated that when the Companions of the Prophet (P.B.U.H.) discussed the matter they believed that if Mai'z and the woman had not come to the Prophet (P.B.U.H.) a fourth time the Prophet would not have summoned them.

Lihaz, who pushed Mai'z to confessing to the Prophet (P.B.U.H.). If you concealled with your robe it would be better for you.

Abi Hurayrah reported that the Prophet (P.B.U.H.) said:

"He who is discrete about his Muslim brother in this world, will be treated with discretion by Allah in this world and the Next."

The Prophet (P.B.U.H.) stated:

"When one person is discrete about another Allah

is discrete about them on the Day of Judgement."

The first hadith specifies the discretion of one Muslim with another. The second is more general, it extends the discretion to all people.

Kathir, the slave of Ukba Ibn Amer, reported that the Prophat (P.B.U.H.) said:

"He who sees a scandal and is disrete about it is like a man who saved a girl from her grave (refering to pre-Islamic traditions of buring girls alive)

Islam is clear that when a crime such as theft is committed; if the victim chooses to forgive the accused paily then that is fine. However, if the crime reaches a court then there can be no forgiveness or mediation.

Ibn Mas'oud narrated: I remember the first time the Messenger cut a person's hand. There was a theif and he was ordered to cut his hand. The Messenger's face was full of sorrow, they said: "O Messenger of Allah, you seem as if you hate to cut his hand." He said: "And what can stop me? Do not be followers of Satan towards your brother. If the Imam knows of the crime then he must carry out the sentence. Allah likes forgiveness:

" ...., but let them pardon and forgive. Do you not

love that God should forgive us? And God is All-Forgiving, Most Merciful." (Sura 24:22)

When a man came to the Messenger of Allah, (P.B.U.H.) and confessed that he performed a crime and he had to be punished by performing the bound, the Messenger did not ask him about his crime, what it was or how he did it, but he considered his confession a repentance especially if he prayed behind the Messenger of Allah (P.B.U.H.).

Abu Dawoud narrats that Abi Omamah says: A man came to the Messenger of Allah and said: "Messenger of Allah I did a crime, so punish me by performing the bound." He said: "Did you ablute before you came?" He answered: "Yes" He asked: "Did you pray behind us when you arrived?" He said: "Yes," Then the Messenger said: "Then go, because Allah, the Most High, forgives you."

Those who studied Islamic sience in the past have found that a Judge or Imam has the power to drop the sentence if he sees the signs of a true repentence. The Sheikh of Islam Ibn Taimia and Almuhakik Ibn Al Kaym prefer doing so. This is what we choose when we regulate sentence in our times.

*** Parry bounds in cases where suspicion exists:**

To compliment that which we have discussed regarding the position of Islam on discretion and forgiveness in the cases of sentencing, Islamic Fiqh in its different branches promates the parry of bounds in the cases where suspicion exists.

Al Hakem says: Parry the bounds as you can. So, if you find an excuse for a Muslim, then sent him free because it is better for the Imam to do wrong with forgiveness than to do wrong with punishment.

Al Hafith Al Dhahabi objected to Al Hakim correcting of the Hadith but previously mentioned hadiths support it.

El Farouq Umar Ibn El Khattab, may Allah be pleased with him, says: "Parry bounds by suspicion."

He enacted this when he did not perform the bound of theft during the year of starvation because there was a suspicion of need. The Companions agreed with him, in some sort of unanimity.

In such a case the sentence was not dropped. In this case the evidence to prove the crime did not justify setting a sentence in the first place.

Another example is what happened with the two

boys who stole from their master. Umar did not perform the bound because he knew that they stole because of their master's injustice, he did not give them what they deserved. He forgave them and threatened their master telling him that if they stole again, he will cut his hand.

Those who study Fiqh have written a great deal about parrying a sentence in cases when suspicion exists in the books of Fiqh. They have found that any doubt should be used to the benefit of the accused.

**** Society does not depend on Legislation alone:***

Islam is not only a form legislation or law, it is a faith that explains existence, it is worship that trains the spirit, it is morals that purify the soul, it is understanding and correcting the imagination, it is politeness that decorates life.

The legislative verses are less than a tenth of the Qur'an. They are mixed with verses of faith, promise is joined with threats and bound to Qur'anic traditions.

For example, the following verses discuss family:

" A divorce is only to be effected twice, then ei-

ther stay together with honour or separate in kindness, and it is not permissible for you to take from women any of that which you have given them, unless both fear that they would dishonour the marriage bound in violation of the bounds set by God. But if you fear that they may not be able to abide by the bounds set by God, there is no blame on either of them if she returns what has been given. These are the bounds set by God, so do not violate them, and if any do violate the bounds ordained by God, such are the evildoers." (Sura 2:229)

There is no hard legislation. It is education, training of will and instilling fear.

The Qur'an states with regard to bound:

" The thief, male or female, cut off their hands, as a recompense for what they have earned, and as an exemplary punishment from God, and God is Almighty, All-Wise.

But whoever repents after his iniquity and reforms himself, then surely God will relent towards him, surely God is All-Forgiving, All-Merciful.

Do you not know that to God belongs the Dominion of the heavens and the earth, He chastises who He pleases and forgives who He pleases, and God

has power over all things." (Sura 5:38-40)

The restraint legislation accompanyed with fear and desire, providing education and training and promoting a desire for repentence and improvement. Allah, the Almighty Who orders and prohibits. He is All-Wise in what He legislates. The All-Forgiving, the All-Merciful to whom one repents and improves. The Owner of the world. He has power over all things.

So, society can not depend on legislation alone. It depends on education and training along side legislation and law.

Islam begins with education and training before legislation and organization.

Therefore, Islam began with the Meccan era - a stage of spreading Islam and discipline - followed by an era in Madina - a stage of legislation and organization. During the second stage legislation and descipline are inter twined.

The changing of laws does not creat an Islamic Society. The essence is the changing of souls and faith. That which changes the soul provides incentives giving man rewards in this life and the Hereafter.

If we want to prevent a crime which has bound either the bound is performed or legislation is enacted. The bound is the last stage in the way of improvement.

Punishment is only for deviants. Islam does not come to punish them but to protect upright people from their deviation.

If we take the cime of adultery as an example, there is a verse in the beginning of Sura An Noor concerning the bound of this crime. Allah, the Most High, says:

" The adulteress and the adulterer, scrooge each of them with a hundred lashes, and let not pity for them detain you from the obedience of God if you believe in God and the Last Day, .." (Sura 24:2)

However, the Sura contains many verses which deal with the protection from this crime.

Allah, the Most High, says:

"Indeed those who love that obscenity should be spread among the believers, shall have a painful chastisment in this life and in the Hereafter,.."

(Sura 24:19)

Allah, the Most High, says about visiting:

" O you believe! Do not enter houses other than your own houses until you have asked permission, and given salutation to the people therein, that is better for you, that you may remember." (Sura 24:27)

Also, there is a verse that deals with the asking of children and the servants for permission. It says:

"O you who believe! Let those whom your right hands possess, and those who have not attained puberty, ask your permission three times before they come to your bedroom before the dawn prayer, and when you put off your garments at noon, and after the evening prayer. These are three times of privacy for you.." (Sura 24:58)

The most important thing is the training of the believers to maintain morals and purity. To do so they must cast down their glances and guard their chastity.

Allah, the Most High, says:

" Say to the believing men, that they cast down their glances, and guard their chastity, that is more pure for them. Indeed God is well aware of what they do.

And say to the believing women, that they cast down their glances and guard their chastity, and re-

veal not their adornment, except that which must appear, and let them draw their veils around their garments over their chests,.." (Sura 24:30-31)

Another element for the protection against adultery is the order of Allah to prevent women from seduction.

Allah, the Most High, says:

" ..Nor let them strike their feet, so that their hidden ornaments may attract. And repent all together to God, O you who believe! So that you may be successful." (Sura 24:31)

Another thing which is important is the marriage of slaves, women and men. The Qur'an says:

" And marry those among you who are single, and the virtuous ones among your slaves, male or female, and if they are poor, God will provide means for them out of His bounty, and God is Infinite, All-Knowing." (Sura 24:32)

The responsibility of the society here is to make marriage easy and help creating Islamic families.

It is the responsibility of the society in general, and the ruler in particular, to facilitate the means for lawful relationships, along with discouraging unlawful ones. This can be done by helping solve the fi-

nancial and social problems facing those who wish to get married. These include: excessive dowries, excessive spending on gifts invitations, feasts and fancy furniture and other similar matters. It is important to aid them financially and morally to build Islamic homes.

So, to perform the bound does not solve the problem. In fact the bound can only be performed when it is applied from the Court with the testimony of four witnesses who saw the crime directly while it was happening. If one commits a crime and is not seen by any one, his punishment will be related to Allah, the Most High, in the Hereafter.

*** *It is the right of Islamic society to rule by the legislation of Allah:***

It is the Islamic communities' right to rule with legislation which they believe is fair and superior to other forms of legislation. In the case of a Muslim society this is not only their right but also their obligation and duty.

So, no one can defame this society because it rules with legislation which expresses its faith, its values and its morals. Islamic legislation explains man and his destiny and life and its rules. However, other laws permit that which is prohibited by Islam such

as alcohol, usury and adultery and prohibit that which is lawful in Islam like divorce and numerous wives. They cancel which is ordered by Islam such Zakah and the performing of bounds or exchange the rules of Allah and His Messenger with another rules from the East and West.

It is true that some laws in many Islamic countries are obtained from Islamic Fiqh.

Here, many important things, must be considered. There are some essential things in these laws which different from Islamic legislation. One example is the prohibition of usury in civil law. The Qur'an warns us to keep away from it. Another example is the performing of bounds.

This is significant because these rulings distinguish between societies. The prohibition of usury and the obligation of Zakah (giving to the poor) are unique features which distinguish an Islamic economy from any other economy.

The prohibition of adultery and alcohol differenciate Islamic civilization. It is not enough that civil laws agree with Islamic legislation laws because this agreement does not give them Islamic values. They must relate to Islamic philosophy and depene on legislated evidences as provided by Islamic Fiqh.

By doing so, the Muslim and his society will obey these laws because their acceptance is part of his worship of Allah, the Most High. His obedience is not for the laws which are set by parliament or government but his obedience is to Allah.

" Most surely the believers, when they are summoned to God and His Messenger that he may judge between them, say only: 'We hear and we obey', they are the successful." (Sura 24:51)

There is a big difference between a Muslim's obligation to a pledge based on the point of view of any philosophy and his obligation to Islamic legislation because of what Allah says:

"O you who believe! Fulfill the pledge."

(Sura 5:1)

The Qur'an also states:

"And fulfill your commitments, surely you shall be questioned about the commitments."

One day, it was said to Hassan Al Hudiby, the leader of the Muslim Brotherhood: "Why do you deny civil laws although they are similar to legislated laws?" His answer was: "We do this because we are obliged to legislated laws and Allah, the Most High, said:

"And you should judge between them by what God has revealed,.." (Sura 5:49)

Islamic legislation cannot be divided. This is because ignoring trivial aspects of legislation leads to ignoring major ones. Allah, the Most High says:

"And you should judge between them by what God has revealed, and do not follow their vain desires, and be cautious of them, lest they tempt you from part of what God has revealed to you,.."

(Sura 5:49)

The Glorious Qur'an disapproves of what the children of Israel have done by dividing religion and take some rules and leaving others. Allah, the Most High says:

"Do you believe in a part of the Scripture and disbelieve in the other parts? So what should be the punishment of those of you who do that but disgrace in this life and on the Day of Resurrection they shall be sent to the most grievous chastisement, and God is not unaware of all that you do" (Sura 2:85)

A Muslim is obliged to accept the Qur'an and legislated laws in their entirety and those who refuse to do so must be punished. This is because he is implying that there are deficiencies in that which is Allah

has set. Islamic nations are differ in their positions on Islamic legislation. Some nations which deal with legislation as principle. Others try to receive their civil laws from legislation. Others venture even family laws. We find an Arabic nation which permits adultery without punishment. On the other hand, it considers marriage to more than one wife a crime deserving punishment. This nation devorce is led by the wife. The punishment law in a case where a man finds his wife with another man and kills him, was a sentenced of five years but has been changed to execution.

* ***The use of Islamic Laws (Shari'ah) proves our liberty.***

We, as Muslims, believe that legislation cannot be separated from our religion and our faith cannot be complete without ruling by it. We have no other choice because we believe in Islam and accept it as our religion and legislation.

"And it is not for any believer, man or woman, when God and His Messenger have decreed a matter, for them to have any choice in that matter. And anyone who disobeys God and His Messenger has indeed gone astray into open error." (Sura 33:36)

Governing by Islamic law liberates us from for-

eign laws which do not consider our faith and marals in their judgement. They permit that which is forbidden and forbid that which is permitted.

The return to Islamic legislation gives liberty from legislative imperialism and also means the return to our initial sources. The enterance of these foreign laws to our nation is like the enterance of Jews to Palastine, started secretly and ending by force.

It is astonishing to the reader how easily foregin laws was set in Egypt. The man who set these laws was an Armenian lawyer and his knowledge did not transgret the intermediate level. The fact is that he did not set these law but copied them. It was said by Masina:, one of the Italian Counselors of Court in Egypt, who describs these laws saying:

"They are collected from here and there without any regulation according to the needs of society and its benifets."

These laws were borrowed without any need or request and without the consultation of the nation. Although it is directly related to the benefits of society.

Nowadays, Arabian and Islamic nations must ask for their independence by returning to legislation.

Evev famous lawyers, who set the positive laws, are calling for this independence after they studied Fiqh.

Dr. Abdel Razek El Sanhory is a famous one of those lawyers who upholds the values of Islamic Fiqh in many of his books and also on many occasions. In one of his lectures which was published in Al Ahram on 1st of January 1937 he says:

"You will find in Islamic legislation many principles and theories which are not different in the form from the modern and civil principles and theories in international Fiqh."

* *The Broader Meaning of Islamic Law, (Shari'ah):*

Islamic legislation is not the belief of one age it is the foundations and the basic judgements which are set forth in the Qur'an and the Sunnah. It was recorded in the books, of sunan and the books of Comparative Fiqh.

This broad basis of research is a fortune that should not be underminded or ignored for the sake of modern interpretations. It is not acceptable that interpretors start from scratch not building on the work of those before them. We are only obligated to this Fiqh with the degree of its authenticity accord-

ing to evidence based on texts and foundations.

One of the established foundations of which there is no doubt is that a legal decision changes according to the change of time and place and this is confirmed by Al Karafy, Ibn El Qayem and Ibn Abdeen.

This foundation has its proofs in the Qur'an and the Sunnah. So, we do not have to follow only one train of thought in our life because this path of thought can be weak in some areas. So, we can follow other paths of thought, especially in the cases of the obligatory of promise, the divorce of a drunk person or an enraged person who has sworn by divorce.

**** The need for contemporary and correct diligence:***

The required Islamic legislation depends on correct contemporary diligence which either is selected or created.

There are two groups of people I wish to warn against: The first group consists of people who want to adapt Islam to the age and to make it easy. They do not want to follow the Qur'an and Sunnah. Those who permit the benefits of banks, which have been forbidden by all Islamic conferences, are of this first group.

The other group consists of those who want to strictly adhere to beliefs of our predecessors which they set during their time, some of these beliefs may not be suitable for our age. These people are of two types: 1-Believers who are imitators and fanatics to their beliefs. 2- The other type are those people whom I call (New Apparent). Those who call for terrorism against anyone who has a new opinion which contradicts their beliefs. Even if that person has spent all his life studying Islamic sciences.

One day, Sheikh Muhammad Abu Zahra, may Allah bless him, during a conference announced his new belief saying:

"I hid it for twenty years but now I am revealing it." Whether his opinion is right or wrong is not the issue. What is important is that he hid it like a secret for twenty years and did not find the chance or have the boldness to write it down because he apprehended those people who threaten them by death. As a result opinions are not revealed or shared.

*** Diligence not anarchy, Renewal not dispersion.**

The calling to diligence in our age does not mean anarchy. Some of people who call for renewal or de-

velopment want to renew Islam according to their personal beliefs:

" And had the Truth followed their desires, surely the heavens and the earth and all that is in them would have been corrupted.." (Sura 23:71)

Their beliefs are related to their ignorance and to Westren Culture. For this reason, they cannot differenciate between Islam with its judgements and development which is changes according to the changing of time and place. They criticise Fiqh and consider it the point of view of a person living in a spacific age. If the age changes, they have to creat new Fiqh.

This may be true for the opinions of some religious people. But it is not true for Fiqh, as a whole, which represents the treasure of legislation created by famous Islamic thinkers beginning with the Companions and then those who follow them guided by the Glorious Qur'an and the Pure Sunnah.

I do not know, and do not think anyone knows, of a nation which set aside its legislative traditions and started from scratch to set laws for its current time, not taking into considerations lessons learned from its past. So how can this take place with a tradition of Fiqh based on Divine Revelation?

Those people do not accept the Sunnah which is the explanation of the Qur'an and Allah orders us to obey Him and His Messenger:

"Say: 'Obey God, and Obey the Messenger'"

(Sura 24:54)

"Whoever obeys the Messenger, then he has obeyed God" (Sura 4:80)

They sometimes accept the Qur'an but reject the Sunnah. Their ignorance appears here because by doing this they contradict the Qur'an itself. So, if we accept their beliefs, we will direct attention to the Qur'an and its judgements. They want to stop performing the bounds, permit what is forbidden and forbid what is permitted. One of them says:

"The Qur'an is not revealed to organise the age pf space but to organize an ignorant and uncivilized society."

Another one says:

"The verse which says: 'The thief, male or female, cut off their hands..' (Sura 5:38) is revealed to prevent one who steals an Arabian camel in the desert which is carrying all his things."

If this man was knowledgable, he would know

that camels were not stolen during the age of the Prophet (P.B.U.H.)

*** Islam is not intangible:**

The rules which we explain are clear. Some of those who doubt legislation, say that Shari'ah (Islamic Law) is intangible and any ruler can interpret it as he likes.

Those who are against the enactment of Islamic legislation are disillusioned to believe that it is not a tangible matter, that it has no definite from, that it sets no boundries, and that it is subject to varying interpretations by different rulers or groups.

Others say: "Which Islam do you call us to, we find that the Islam which is followed by some rulers differs from one country to another. There is the Islam of Sudan, of Iran, of Bakistan and Libia."

Or as it was said by others:

" Islam of Nomiry, of Khominy, or Diaa Al Haq and of Al Kadhafy."

We say to those people, Islam is Islam it is not associated with anyone. It is the Islam of the Qur'an and Sunnah. It is not to be associated with any person except Muhammed (P.B.U.H.). No matter how explanations differ or the enactment of Islamic law

differs, there will be definit things which refer to the unity of thoughts, emotions and behaviour of the nation: The definit faith and thought, the definit Shari'ah and system and the definit morals.

These common definite factors are the foundation of legislation which decide its direction. Other systems and judgements are related to rules which are set by Islamic thinkers according to, 1) the legislated text, 2)the understanding of what they explain, 3) to contrive what does not have a text in the Qur'an. So we find sciences for the basics of Fiqh, the regulation of Hadith and the regulation of interpretation which are important for understanding and contrivance.

Their is no harm in having several schools of Fiqh. So long as each school uses as its basis sound scientific evidence and avoids incorporating any opinions or traditions.

Perhaps these differences will serve as a spark for Islamic thought and will encourage Islamic work within a correct context.

** Issue of Progression:*

Progression is one of Allah's tools in His creation and legislation. He created mankind from something

which clings, then a chewed lump of flesh then bons...etc, and He created the world in six days. He also forbids prohibitions using a progressive pattern addressing the weakness of mankind.

There is no doubt that Islamic laws are complete. But to enact them in our age requires preparation. The society must be prepared to follow Islamic obligation. This has been implemented in some countries and not in others. It requires effort to overcome barries, avoid shakiness, find alternatives. It is difficult to raise a generation which combine power and honesty. This must be difficult since previous generations complained from it.

So, there is no objection to the use of progression in fact it follows the prophetic guidance,

" Allah loves leniency in the whole matter", and the Caliph 'Umar Ibn Abdel Aziz also used progression.

Historians say of Umar Ibn Abdel Aziz that his son Abdel Malik once said: "Why do not you enact the rules? I swear by Allah that I do not care if we excess in the Right."

He wanted his father to put an end to injustice and corruption whatever the cost. His father Umar said:

"Do not hurry, my son. Allah censures alcohol

twice in the Qur'an and forbids it at the third time. I'm afraid if I order people to perform the Right as a whole, they will reject it as a whole then it will be a form of incorrect rulership."

The Caliph solved matters with wisdom and progression and he is guided by the progression of Allah, the Most High, in prohibiting alcohol.

What we are demanding is to put forth a plan changes in education, culture and society. We should begin with issues that do not require progression or preparation but depend on good resolution.

It is important to note that this should not be used as an excuse to delay the enactment of Islamic law. So that as time goes by the issue is forgotten, while we pretend that we are using a progressive policy. In fact we should follow the policy of Umar Abdel Aziz: Not a day goes by without the elimination of a novelty and revival of a Sunnah. And in this manner the required progression will be achieved. To achieve progression a goal must be set, a plan put forth, the stages defined and the means to achieve this goal directed towards doing so.

Therefore, we are calling for a plan that includes education, media, intellectual and social issues starting with issues which do not require progression but

rather require honest guidence and genvine will.

* *He who believes in Shari'ah (Islamic Laws) is the only one who can conforms to it:*

Shari'ah cannot be conformed to without the belief of people in its sacredness and the justice of its judgement. It is a part of worshipping Allah which provides believers with incentive to understand it and to follow its principles.

Thus, the Companions and ealier Muslims, may Allah be pleased with them all, believed in Islam and embraced it. The defect in many contemporary efforts to enact Islamic laws is that they are not being enforced by people who embrace them but by people who were previously against them. The enactment of Islamic laws requires people who believe in it and are responsible for conforming to its values and rules. Without this, enactment and improvement will be useless.

* *Shari'ah is for the public as it is for the rulers:*

The enactment of Shari'ah is not the business of rulers alone. The public have the responsibility of adhering to Shari'ah in some matters that do not require the interference of rulers. The judgements that

organize the relationship between a man and his family and society are neglected by many Muslims. Thus, they violate the bounds of Allah. Nothing will correct this except their adherence to Allah's Orders.

So, Islamic minds must do their best to aid people in enacting God's legislation.

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Legislation And Law in Islam

Legislation in Islam includes more than bounds and punishment, it organizes the relationships between man and his God, his family and his society. It also organizes the relations between the ruler and the subjects, between the rich and the poor, between the owner and the renter and between the Islamic state and other states in peace abd war. It is a civil, administrative, regulated and national law in addition to its being a religious law. Islamic Fiqqh includes: worship, treatment, marriage, inheritance, cases, bounds, punishment, strife, treaties, what is lawful, what is forbidden, precepts and good manners. It organizes man's life from personal hygiene to how to run matters of State.

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